

AMENDED IN ASSEMBLY APRIL 16, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

No. 937

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**Introduced by Committee on Business and Professions (Eng (Chair),  
Emmerson (Vice Chair), Bass, Carter, Hayashi, Hernandez,  
Horton, Maze, Price, and Torrico)**

February 22, 2007

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An act to amend Sections 5535, 5535.1, 5535.2, ~~and 5535.3~~ 5535.3, 5616, and 5640 of, and to add Section 5535.25 to, the Business and Professions Code, relating to architecture.

### LEGISLATIVE COUNSEL'S DIGEST

AB 937, as amended, Committee on Business and Professions. ~~Architects.~~ *Architects: landscape architects.*

The Architects Practice Act provides for licensing and regulation of persons engaged in the practice of architecture by the California Architects Board. Existing law provides for the licensing of certain persons, as defined, to practice architecture and permits an architect to form a partnership with nonarchitects if certain conditions are met. Existing law requires architects to have responsible control, as defined, over certain aspects of practice. *Existing law authorizes a corporation to furnish or supply by contract architectural services by and under the responsible control of a licensed architect or architects.* Existing law makes it a crime for an unlicensed person to engage in certain activities related to architecture, for a person to make certain representations, or for a licensee in responsible control of plans, specifications, and instruments of service not to sign off on those documents.

This bill would ~~also~~ *revise the definition of a person for purposes of the Architects Practice Act to also include a partnership or a professional*

corporation in the definition of a person for the purposes of the Architects Practice Act and would specify that the term includes a general corporation rather than a corporation. The bill would permit an architect to form a business entity or enter into any a collaboration; defined as an employer and employee relationship, a joint venture, a partnership, or a corporation, with a nonarchitect as long as certain conditions are met and would define the terms “business entity” and “collaboration” as an employer and employee relationship, a joint venture, a partnership, a general corporation, or a consulting relationship, as specified. This bill would additionally revise the definition of “responsible control” to control over the content of all instruments of architectural service, rather than control over the content of technical submissions. This bill would permit a corporation to furnish or supply by contract architectural services as long as any architects’ professional services, as defined, are offered and provided under the control of a licensed architect or architects. Because this bill would expand the application of certain criminal provisions, it would impose a state-mandated local program.

Existing law provides for the licensure and regulation of landscape architects by the California Architects Board and makes it a misdemeanor for any person to, among other things, engage in the practice of landscape architecture without a valid, unrevoked license from the board. Existing law requires landscape architects to provide customers with detailed written contracts that include specified provisions, including, but not limited to, a description of the procedure that the landscape architect and client will use to accommodate additional services.

The bill would specify exceptions to that written contract requirement, would require that the contract be executed prior to the landscape architect commencing work, except as specified, and would require that the written contract also include a description of the procedure to be used by either party to terminate the contract. The bill would also specify that a written contract includes a contract in electronic form. In addition, this bill would make it a misdemeanor to use the stamp of a licensed landscape architect, as specified, or to advertise or put out a device that might indicate to the public that he or she is a licensed landscape architect or qualified to engage in landscape architecture. Because the bill would create new crimes, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 5535 of the Business and Professions  
2 Code is amended to read:

3 5535. As used in this article, the word “person” includes any  
4 individual, firm, partnership, *general* corporation, professional  
5 corporation, or limited liability partnership, as authorized by the  
6 Corporations Code.

7 SEC. 2. Section 5535.1 of the Business and Professions Code  
8 is amended to read:

9 5535.1. The phrase “responsible control” means that amount  
10 of control over the content of all instruments of ~~architectural~~ service  
11 during their preparation that is ordinarily exercised by architects  
12 applying the required professional standard of care.

13 SEC. 3. Section 5535.2 of the Business and Professions Code  
14 is amended to read:

15 5535.2. (a) This chapter does not prevent an architect from  
16 *forming a business entity or collaborating with persons who are*  
17 *not architects but the name, license number, and signature of the*  
18 *architect shall appear as the architect in responsible control on all*  
19 *offers, contracts, and instruments of service and in no case may*  
20 *the nonarchitect members of the collaboration be designated as,*  
21 *or represented to be, architects., provided that any architects’*  
22 *professional services that are provided through that entity or*  
23 *collaboration are offered and provided under the responsible*  
24 *control of an architect, or architects, and in accordance with the*  
25 *provisions of this chapter.*

26 (b) *For purposes of this section, “architects’ professional*  
27 *services” means professional services that require the skills of an*  
28 *architect in the planning of sites, and the design, in whole or in*  
29 *part, of buildings, or groups of buildings and structures, and*

1 *includes, but is not limited to, the services described in subdivision*  
2 *(b) of Section 5500.1.*

3 SEC. 4. Section 5535.25 is added to the Business and  
4 Professions Code, to read:

5 5535.25. As used in this article, the ~~term~~ *terms* “*business*  
6 *entity*” and “*collaboration*” ~~includes~~ *include* employer and  
7 employee relationships, joint ventures, partnerships, ~~and~~  
8 ~~corporations~~ *general corporations, and consulting relationships*  
9 *formed by written agreement in which the architect provides*  
10 *immediate and responsible direction, as defined in Section 151 of*  
11 *Title 16 of the California Code of Regulations.*

12 SEC. 5. Section 5535.3 of the Business and Professions Code  
13 is amended to read:

14 5535.3. (a) This chapter does not prevent a corporation from  
15 furnishing or supplying by contract architectural services, as long  
16 as ~~the services~~ *any architects’ professional services* are offered  
17 and provided ~~by~~ and under the responsible control of a licensed  
18 architect or architects.

19 (b) *For purposes of this section, “architects’ professional*  
20 *services” means professional services that require the skills of an*  
21 *architect in the planning of sites, and the design, in whole or in*  
22 *part, of buildings, or groups of buildings and structures, and*  
23 *includes, but is not limited to, the services described in subdivision*  
24 *(b) of Section 5500.1.*

25 SEC. 6. Section 5616 of the Business and Professions Code is  
26 amended to read:

27 5616. ~~Any~~ (a) A landscape architect ~~who agrees to provide~~  
28 ~~professional services pursuant to this chapter shall provide every~~  
29 ~~client with a detailed written contract. That shall use a written~~  
30 ~~contract when contracting to provide professional services to a~~  
31 ~~client pursuant to this chapter. The written contract shall be~~  
32 ~~executed by the landscape architect and the client, or their~~  
33 ~~representatives, prior to the landscape architect commencing work,~~  
34 ~~unless the client knowingly states in writing that work may be~~  
35 ~~commenced before the contract is executed. The written contract~~  
36 ~~shall include, but not be limited to, all of the following:~~

37 (a)

38 (1) A description of services to be provided by the landscape  
39 architect to the client.

40 (b)

(2) A description of any basis of compensation applicable to the contract, including the total price that is required to complete the contract, and the method of payment agreed upon by both parties.

~~(e)~~

(3) A notice that reads:

“Landscape architects are licensed by the State of California.”

~~(d)~~

(4) The name, address, and license number of the landscape architect and the name and address of the client.

~~(e)~~

(5) A description of the procedure that the landscape architect and client will use to accommodate additional services.

*(6) A description of the procedure to be used by either party to terminate the contract.*

*(b) This section shall not apply if the client knowingly states in writing after full disclosure of this section that a contract that complies with the requirements of this section is not required.*

*(c) This section shall not apply to any of the following:*

*(1) Professional services rendered by a landscape architect for which the client will not pay compensation.*

*(2) An arrangement as to the basis for compensation and manner of providing professional services implied by the fact that the architect’s services are of the same general kind which the architect has previously rendered to and received payment from the same client.*

*(3) Professional services rendered by a landscape architect to any of the following:*

*(A) A landscape architect licensed under this chapter.*

*(B) An architect licensed under Chapter 3 (commencing with Section 5500).*

*(C) A professional engineer licensed under Chapter 7 (commencing with Section 6700).*

*(D) A professional land surveyor licensed under Chapter 15 (commencing with Section 8700).*

*(E) A contractor licensed under Chapter 9 (commencing the Section 7000).*

*(F) A geologist or geophysicist licensed under Chapter 12.5 (commencing with Section 7800).*

1 (G) A manufacturing, mining, public utility, research and  
2 development, or other industrial corporation, if the services are  
3 provided in connection with, or incidental to, the products, systems,  
4 or services of that corporation or its affiliates.

5 (H) A public agency.

6 (d) As used in this section, “written contract” includes a  
7 contract that is in electronic form.

8 SEC. 7. Section 5640 of the Business and Professions Code is  
9 amended to read:

10 5640. It is a misdemeanor, punishable by a fine of not less than  
11 one hundred dollars (\$100) nor more than five thousand dollars  
12 (\$5,000) or by imprisonment in the county jail not exceeding six  
13 months, or by both that fine and imprisonment, for ~~any~~ a person,  
14 who, without possessing a valid, unrevoked license as provided  
15 in this chapter, ~~engages~~ does any of the following:

16 (a) Engages in the practice of landscape architecture ~~or uses~~.

17 (b) Uses the title or term “landscape architect”, “landscape  
18 architecture,” “landscape architectural,” or any other titles, words,  
19 or abbreviations that would imply or indicate that he or she is a  
20 landscape architect as defined in Section 5615.

21 (c) Uses the stamp of a licensed landscape architect, as provided  
22 in Section 5659.

23 (d) Advertises or puts out a sign, card, or other device that might  
24 indicate to the public that he or she is a licensed landscape  
25 architect or qualified to engage in the practice of landscape  
26 architecture.

27 ~~SEC. 6.~~

28 SEC. 8. No reimbursement is required by this act pursuant to  
29 Section 6 of Article XIII B of the California Constitution because  
30 the only costs that may be incurred by a local agency or school  
31 district will be incurred because this act creates a new crime or  
32 infraction, eliminates a crime or infraction, or changes the penalty  
33 for a crime or infraction, within the meaning of Section 17556 of  
34 the Government Code, or changes the definition of a crime within  
35 the meaning of Section 6 of Article XIII B of the California  
36 Constitution.